

use of Methionine, a synthetic substance, in organic poultry production until October 1, 2010. The NOSB evaluated this substance using criteria in the OFPA. The substance's evaluation was initiated by a petition from the MTF.

The NOSB has determined that while wholly natural substitute products exist, they are not presently available in sufficient supplies to meet poultry producer needs. Therefore, synthetic Methionine is presently a necessary component of a nutritionally adequate diet for organic poultry. Thus, loss of the use of Methionine, at this time, would disrupt the well-established organic poultry market and cause substantial economic harm to organic poultry operations. Accordingly, the NOSB has recommended extending the allowed use of synthetic Methionine in poultry production until October 1, 2010.

AMS believes that a 30-day period for interested persons to comment on this rule is appropriate because the continued use of Methionine is critical to organic production, and this rulemaking should be completed before October 1, 2008, to avoid any disruptions to the market place.

List of Subjects in 7 CFR part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, subpart G is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

§ 205.603 [Amended]

2. Section 205.603(d)(1) is amended by removing “2008” and adding “2010” in its place.

Dated: July 1, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 242

[Release No. 34–58107; File No. S7–19–07]

RIN 3235–AJ57

Amendment to Regulation SHO

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; notice of re-opening of comment period.

SUMMARY: The Securities and Exchange Commission is re-opening the comment period on the “Amendments to Regulation SHO” it re-proposed in Securities Exchange Act Release No. 56213 (August 7, 2007), 72 FR 45558 (August 14, 2007), (the “Proposal”). In view of the continuing public interest in the Proposal we believe that it is appropriate to re-open the comment period to provide the public with additional information before we take action on the Proposal.

DATES: Comments should be received on or before August 13, 2008.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/proposed.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7–19–07 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–19–07. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/proposed.shtml>). Comments are also available for public inspection and copying in the Commission’s Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying

information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT:

James A. Brigagliano, Associate Director, Josephine J. Tao, Assistant Director, Victoria L. Crane, Branch Chief and Christina M. Adams, Staff Attorney, Office of Trading Practices and Processing, Division of Market Regulation, at (202) 551–5720, at the Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is requesting additional public comment on proposed amendments to Rules 200 and 203 of Regulation SHO [17 CFR 242.200 and 242.203] under the Securities Exchange Act of 1934 (“Exchange Act”). In the Proposal, the Commission re-proposed amendments to Regulation SHO under the Exchange Act intended to further reduce the number of persistent fails to deliver¹ in certain equity securities by eliminating the options market maker exception to the close-out requirement of Regulation SHO. The Commission also sought comment on two alternatives to elimination that would limit the scope of the options market maker exception. The Commission is re-opening the comment period, which ended on September 13, 2007, to provide additional information with respect to the Proposal to the public.

At the same time that the Commission re-proposed amendments to Regulation SHO to eliminate the options market maker exception to Regulation SHO’s close-out requirement, the Commission approved amendments to Regulation SHO to eliminate the rule’s “grandfather” provision.² The “grandfather” provision had provided that fails to deliver established prior to a security becoming a threshold security did not have to be closed out in accordance with Regulation SHO’s thirteen consecutive settlement day close-out requirement. The amendment to eliminate the “grandfather” exception became effective on October 15, 2007.

¹ A “fail to deliver” occurs when the seller of a security fails to deliver the security by settlement date. Generally, investors must complete or settle their security transactions within three business days. This settlement cycle is known as T+3 (or “trade date plus three days”). T+3 means that when the investor purchases a security, the purchaser’s payment generally must be received by its brokerage firm no later than three business days after the trade is executed. When the investor sells a security, the seller generally must deliver its securities, in certificated or electronic form, to its brokerage firm no later than three business days after the sale.

² Securities Exchange Act Release No. 56212 (Aug. 7, 2007), 72 FR 45544 (Aug. 14, 2007).

The amendment also contained a one-time phase-in period that provided that previously-grandfathered fails to deliver in a security that was a threshold security on the effective date of the amendment must be closed out within 35 consecutive settlement days from the effective date of the amendment. The phase-in period ended on December 5, 2007.³

In response to the Proposal, commenters urged the Commission to obtain empirical data to demonstrate the relationship between fails to deliver and the options market maker exception before it determines whether additional rulemaking is necessary. In particular, commenters urged the Commission to obtain data relating to the impact of the elimination of the grandfather provision and connecting fails to deliver to the options market maker exception.⁴ The Commission has obtained additional data on fails to deliver since the Proposal was published. Accordingly, in response to commenters and because the Commission believes the additional data will aid the public in commenting on the Proposal, the Commission is re-opening the comment period to share with the public data obtained by the Commission regarding fails to deliver and the options market maker exception, and to provide the public with an opportunity to comment on the data.

To ascertain whether fails to deliver are not being closed out due to the options market maker exception to the close-out requirement since the elimination of the “grandfather” provision, Commission staff obtained data on securities with extended fails to deliver from a National Securities Clearing Corporation (“NSCC”) participant which settles and clears for a large segment of the options market for January and February 2008. A review of this data reveals that a high number of fails to deliver were not closed out as a result of the options market maker exception.⁵ Specifically, the data indicated that as of January 31, 2008, the options market maker exception was claimed in 16 threshold securities for a total of 6,365,158 fails to deliver. As of February 29, 2008, the data indicated

that the options market maker exception was claimed in 20 threshold securities for a total of 6,963,949 fails to deliver.

In addition, the Commission is releasing the results of a recent analysis by the Commissions’ Office of Economic Analysis (“OEA”) of fails to deliver before and after the elimination of Regulation SHO’s “grandfather” provision.⁶ As set forth below, these results show that extended fails to deliver in non-optionable threshold securities declined significantly after the elimination of the “grandfather” provision while extended fails to deliver in optionable threshold securities increased significantly. Specifically, changes for optionable threshold securities include:

- The average daily number of optionable threshold list securities increased by 25.0%.
- The average daily number of new fail to deliver positions in optionable threshold securities increased by 45.3%.
- For fails aged more than 17 days in optionable threshold securities, the average daily dollar value of fails to deliver increased by 73.4%.
- For fails aged more than 17 days in optionable threshold securities, the average daily number of fail to deliver positions increased by 30.7%.
- The average daily number of optionable threshold list securities with fails aged more than 17 days increased by 40.9%.

Further, changes for non-optionable threshold securities include:

- The average daily number of non-optionable threshold list securities decreased by 3.5%.
- The average daily number of new fail to deliver positions in non-optionable threshold securities increased by 7.4%.
- For fails aged more than 17 days in non-optionable threshold securities, the average daily dollar value of fails to deliver decreased by 34.5%.
- For fails aged more than 17 days in non-optionable threshold securities, the average daily number of fail to deliver positions decreased by 38.8%.
- The average daily number of non-optionable threshold list securities with

fails aged more than 17 days decreased by 32.6%.⁷

To ascertain the extent to which fails to deliver were not being closed out due to the options market maker exception to the close-out requirement prior to the elimination of the “grandfather” provision, Commission staff obtained data from certain self-regulatory organizations for 2006 and 2007 regarding use of the options market maker exception. This data is explained in more detail below.

In 2007, as part of its regular Regulation SHO surveillance, the Financial Industry Regulatory Authority (“FINRA”) conducted a review of securities with extended fails to deliver at the NSCC to ascertain the continuing cause of fails to deliver, and to also assess compliance with NYSE Rule 440/SEA⁸ and Regulation SHO. As set forth below, according to data provided by one NSCC participant that settles and clears for a large segment of the options market, a number of fails to deliver at that participant were not closed out due to claims that the fails were excepted from the close-out requirement as a result of the options market maker exception.

A review of the FINRA data for 2007 shows the following:

Month	Fails to deliver ⁹	Number of securities
February	35,665	1
March	900,276	5
April	3,433,639	8
May	228,878	2
June	2,441,122	14
July	462,414	6
August	3,065,710	12
October	4,456,340	13
November	1,841,063	2
December	5,621,982	15

As indicated in the table above, the options market maker exception to the close-out requirement was claimed for a large number of fails to deliver for the entire year, including both before and after October 15, 2007, the effective date of the elimination of Regulation SHO’s “grandfather” provision.

On December 11, 2006 the Chicago Board of Options Exchange (“CBOE”)

³ See *id.*

⁴ See e.g., Comments of Keith F. Higgins, Committee on Federal Regulation of Securities, American Bar Association, Section of Business Law (Oct. 5, 2007); comments of John Gilmartin and Ben Londergan, Group One Trading, LP (Sept. 28, 2007); see also comments of Gerald D. O’Connell, Susquehanna Investment Group (Oct. 11, 2007).

⁵ We note that the data reflects only those extended fails to deliver not closed out due to the options market maker exception and, therefore, does not reflect all fails to deliver in the securities included in the data.

⁶ See Memorandum from the Commission’s Office of Economic Analysis (dated June 9, 2008), which is available on the Commission’s Internet Web site at <http://www.sec.gov/comments/s7-19-07/s71907.shtml> (the “OEA Memorandum”). As discussed above, the “grandfather” provision was eliminated as of October 15, 2007 with a one-time phase in period which expired on December 5, 2007. The sample data used in the OEA Memorandum compares two time periods: April 9, 2007–October 14, 2007, which is defined as the “pre-amendment period” and December 10, 2007–March 31, 2008, which is defined as the “post-amendment period.”

⁷ See *id.*

⁸ NYSE Rule 440 requires that “[e]very member not associated with a member organization and every member organization shall make and preserve books and records as the Exchange may prescribe and as prescribed by Rule 17a-3.”

⁹ These numbers represent fails to deliver which, as explained in footnote 1 above, are shares of a security that are not delivered by settlement date. According to the data provided to FINRA, these fails to deliver were not closed out due to the options market maker exception.

along with the American Stock Exchange, NYSE Arca, Inc., and the Philadelphia Stock Exchange initiated a Regulation SHO review of options market makers covering the time period from May through July 2006. The focus of these reviews was the options market maker exception to the close-out requirement for aged fails to deliver in threshold securities that were open for thirteen consecutive settlement days.¹⁰

According to CBOE, the reviews revealed that there were 598 exceptions claimed, covering 58 threshold securities for a total of 11,759,799 fails to deliver. For the 58 threshold securities identified, the number of fails to deliver for which an exemption was claimed from the close-out requirement ranged from 207 to 1,950,655. The following is a distribution of the number of fails to deliver:

Number of fails to deliver for which exception was claimed	Number of threshold securities
0–100,000	35
100,001–200,000	4
200,001–300,000	4
300,001–400,000	5
400,001–500,000	4
500,001–600,000	2
600,001–700,000	
700,001–800,000	1
800,001–900,000	
900,001–1,000,000	1
>1,000,000	2

Therefore, the Commission is re-opening the comment period for Exchange Act Release No. 56213 from the date of this release through August 13, 2008.

Dated: July 7, 2008.

By the Commission.

Florence E. Harmon,
Acting Secretary.

[FR Doc. E8–15768 Filed 7–11–08; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2005–5]

Retransmission of Digital Broadcast Signals Pursuant to the Cable Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of time to file comments and reply comments.

SUMMARY: The Copyright Office is extending the time in which comments and reply comments may be filed in response to its Notice of Proposed Rulemaking regarding the retransmission of digital television broadcast signals by cable operators under Section 111 of the Copyright Act. **DATES:** Comments are due July 31, 2008. Reply Comments are due September 16, 2008.

ADDRESSES: If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to the Library of Congress, U.S. Copyright Office, Room LM–401, James Madison Building, 101 Independence Ave., SE, Washington, DC 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site (“CCAS”) located at 2nd and D Streets, NE, Washington, DC between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM–403, James Madison Building, 101 Independence Avenue, SE, Washington, DC 20559. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On June 2, 2008, the Copyright Office published a Notice of Proposed Rulemaking (“NPRM”) seeking comment on specific proposals and policy recommendations related to the retransmission of digital television signals by cable operators under Section 111 of the Copyright Act. See 73 FR 31399 (June 2, 2008). On June 30, 2008, the Copyright Office published its Section 109 Report to Congress which, inter alia, broadly discussed the continuing need for the cable statutory

license (“Report”). The Report also examined many of the digital signal retransmission issues that were initially raised in the NPRM and recommended changes to the existing statute to accommodate digital television in the cable statutory license royalty scheme. See Satellite Home Viewer Extension and Reauthorization Act ~109 Report at 108–114.

On July 7, 2008, the National Cable and Telecommunications Association (“NCTA”) filed a request for an extension of time to file comments and reply comments in this proceeding. NCTA asks for an extension because “(f)urther study of the recently–released Report is necessary to assess its relationship to the rules proposed in the Digital NPRM and its impact, if any, on comments that may be filed in that proceeding.” NCTA requests a brief two week extension so that comments would be due on July 31, 2008 and September 16, 2008.

Given the complexity of the issues raised in the NPRM, and the publication of the Section 109 Report to Congress thereafter, the Office grants the request to extend the comment and reply comment dates in this proceeding. Comments are now due on July 31, 2008 and reply comments are due on September 16, 2008.

Dated: July 8, 2008

Tanya Sandros,

General Counsel

U.S. Copyright Office

[FR Doc. E8–15951 Filed 7–11–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0524; FRL–8690–7]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Attainment Demonstration for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to conditionally approve the 1997 8-hour ozone attainment demonstration State Implementation Plan (SIP) revision for the Dallas/Fort Worth moderate 8-hour ozone nonattainment area (DFW area) submitted by the State of Texas on May 30, 2007 and supplemented on April 23, 2008. We are also proposing to approve the associated attainment Motor Vehicle

¹⁰ The “grandfather” provision was also in effect during this period but was not the subject of these reviews.